

641—85.4(135) Filing an application.

85.4(1) Any person having knowledge and concern may file the application on behalf of any patient residing within the geographic area served by the local board, when the person filing the application believes the patient is incapable of decision making, is in need of medical care, and has no other surrogate decision maker available.

85.4(2) The local board of the county of residence of the patient shall have jurisdiction except the local board may, by mutual consent, transfer jurisdiction to the local board in the county where the treatment is being considered.

85.4(3) The application shall be made in writing and shall include the following:

- a.* The relationship of the person filing the application to the patient.
- b.* A statement that the patient does not have an attorney-in-fact, guardian, spouse, adult child, parent or an adult sibling who is reasonably available, willing and able to make the medical care decision. The application shall provide the factual basis for such a statement, including the efforts made to contact such persons.
- c.* The reasons for believing that the person lacks the capability to consent to or refuse medical care and the factual basis supported by an appropriate statement for this belief.
- d.* The patient's opinion regarding the proposed care, if known, and the source(s) of the information regarding this opinion.
- e.* If the patient's opinion regarding the proposed care is not known, the person filing the application shall include a stated opinion on whether the best interests of the patient would be promoted by such care and the basis for the opinion.
- f.* Any other information that may be necessary to determine the need for such care, including a copy of a second medical or dental opinion which would be required by a prudent physician or dentist based on the nature of the proposed medical care.
- g.* A statement, completed, signed and dated by a physician or dentist including:
 - (1) A description of the proposed medical care and the patient's medical or dental condition which requires such treatment indicating the date of diagnosis;
 - (2) The risks and benefits to the patient of the proposed care and any alternative treatments including consideration and consequences of nontreatment; and
 - (3) A statement whether the patient has any medical or dental condition which would prevent the patient's travel to or presence at the panel meeting and including a description of such condition.
- h.* The application shall be signed and dated by the person filing it stating that the information on the application is true to the best of that person's knowledge, except for any portion signed and dated by another person who shall make a similar statement as to that portion.